IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.22 OF 2004
IN
SUMMARY SUIT NO.3392 OF 2003

Sikkas Kwick Handling Service (P) Ltd. ..Plaintiffs.

Vs.

Sunrise Transmission Ltd. ..Defendants.

Mr.Kamal Khata i/b.M/s.Motiwala & Co., Advocate for the Plaintiffs.

None for the Defendants.

CORAM: S.J.VAZIFDAR, J.
DATED: 18TH JANUARY, 2005

P.C. :

The suit is filed to recover a sum of Rs.5,74,297.39 ps. together with interest at 18% per annum.

2. The claim arises in respect of clearing and forwarding work executed by the Plaintiff for and on behalf of the Defendants in respect whereof eighteen invoices, annexed to the plaint, have been raised. Each of these invoices states that any objection thereto ought to be raised within seven days. The Defendants did not raise any objection in accordance with the clause. Each of the invoices also provides

for interest at 18% per annum if the payment is not made within 30 days. The Plaintiff also claimed amounts in respect of certain other work pertaining to dealing with excise formalities, licences etc. on behalf of the Defendants. Thirteen invoices for the same, annexed to the plaint have been raised.

3. Three notices dated 15.7.2002, 3.8.2002 and 17.12.2002 addressed by the Plaintiff to the Defendants demanding payment of their dues remained unanswered.

4. A meeting was held between the parties on 6.3.2000. It appears that the dispute to be resolved between the parties was in respect of certain other work executed by the Plaintiff on behalf of the Defendants. As recorded in the minutes, the Plaintiff restricted its claim to Rs.5,74,297.39 ps. i.e. the suit claim. These minutes were signed by both the parties.

5. The Defendants did not thereafter allege that the Plaintiff’s claim as recorded in the minutes was unwarranted for any reason. They did not dispute the validity of the invoices.

6. In the correspondence that ensued between the parties thereafter, the only defence raised by the Defendants was that there were certain issues pending for more than four years and the Defendants, in respect of such issues, forwarded debit notes in the sum of Rs.10,18,708.58 ps.

7. It is pertinent to note that this claim was raised for the first time. It is important to note that the alleged dispute was not even recorded in the aforesaid minutes of the meeting held on 6.3.2000. No claim in respect thereof has been filed. There does not therefore appear to be any defence to the suit.

8. In the circumstances, the Summons for Judgment is made absolute. Interest however after the date of filing of the suit shall be at 12% per annum on the principal sum.

Parties to act on an ordinary copy of this order duly authenticated by the Associate/Court Stenographer.